DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART AGUS COMHIONANNAS

JOINT COMMITTEE ON JUSTICE AND EQUALITY

Dé Céadaoin, 28 Samhain 2018

Wednesday, 28 November 2018

The Joint Committee met at 9 a.m.

MEMBERS PRESENT:

Deputy Colm Brophy,	Senator Martin Conway,
Deputy Clare Daly,	Senator Niall Ó Donnghaile.
Deputy Jim O'Callaghan,	
Deputy Mick Wallace,	

In attendance: Deputy Donnchadh Ó Laoghaire.

DEPUTY CAOIMHGHÍN Ó CAOLÁIN IN THE CHAIR.

Business of Joint Committee

Chairman: We will commence in public session. I remind members to switch off their mobile phones as they interfere with the recording equipment. Apologies have been received from Senator Black. We will go into private session to deal with housekeeping matters.

The joint committee went into private session at 9.05 a.m. and resumed in public session at 9.29 a.m.

General Scheme of Sex Offenders (Amendment) Bill 2018: Discussion

Chairman: I remind members and guests to switch off their mobile phones as they interfere with the recording equipment. The purpose of this morning's engagement is to conduct pre-legislative scrutiny of the general scheme of the sex offenders (amendment) Bill, which is a Government Bill, and a Private Members' Bill of the same title, the Sex Offenders (Amendment) Bill 2018, sponsored by Deputy Maureen O'Sullivan, our colleague who is seated with the witnesses this morning.

I am pleased to welcome Deputy O'Sullivan. We will begin with her opening contribution. From the Probation Service, we are also joined by Mr. Vivian Geiran, director, Ms Ita Burke, deputy director, and Mr. Brian Dack, assistant director. They are all very welcome. From the Police Service of Northern Ireland we are joined by Ms Barbara Gray, assistant chief constable in the crime operations department, Ms Paula Hilman, detective chief superintendent and head of the public protection branch, and Mr. Ray Henderson, detective superintendent. They are all very welcome. They are following some of their colleagues who were before the committee recently and we are delighted they have joined us here to discuss this very important issue. I extend a very warm welcome to Ms Caroline Counihan, legal policy adviser of the Rape Crisis Network Ireland and from University of Limerick's school of law we are joined by Dr. Margaret Fitzgerald-O'Reilly. They are also very welcome. We shall invite a short opening address from each witness. If the order I indicated in the welcome suits, that will work easiest for me.

I must draw the attention of our witnesses to the situation on privilege. Please note that you are protected by absolute privilege in respect of the evidence you are to give to the committee. However, if you are directed by the committee to cease giving evidence on a particular matter and you continue to so do, you are entitled thereafter only to a qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given and you are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members of the committee should be aware that under the Salient Rulings of the Chair they should not comment on, criticise or make charges against a person outside the House or an official by name or in such a way as to make him or her identifiable.

As I indicated, the format is that Deputy O'Sullivan will outline her Bill first. As with all other Members of the Houses, Deputy O'Sullivan is very busy and is free to leave thereafter or whenever she so chooses at her own comfort. She is also very welcome to stay for the duration if it is within her gift. Our witnesses can then address both Bills in their opening statements. After Deputy O'Sullivan we will hear from Mr. Geiran, Ms Gray, Ms Counihan and Dr.

Fitzgerald-O'Reilly. The witnesses now have notice with regard to their opening statements. It gives me great pleasure to welcome Deputy O'Sullivan before the committee and I invite her to make her opening address.

Deputy Maureen O'Sullivan: Gabhaim míle buíochas leis an gcoiste agus leis an gCathaoirleach as ucht an deis seo a thabhairt dom labhairt ar an mBille seo. I am very grateful for this opportunity. I will begin with some general points and background. We know about our own past when it comes to protecting and guarding children and how much it leaves to be desired. We had all of the events in industrial schools, mother and baby homes, Magdalen laundries and foster homes. However, Ireland has come a long way in ensuring the safety of children and we have seen the progress that has been made on child welfare and protection. Even though there is still room for improvement in Ireland we can only imagine what it must be like for children in those countries where they do not have protection and do not have child welfare or safeguards. The Bill is about trying to protect children who are easy prey for sexual predators in countries where the authorities cannot or will not protect them from those convicted of sexual abuse in Ireland.

The UN Convention on the Rights of the Child recognises a child as being a person under the age of 18. Child abuse is also about trafficking, which is the third biggest illegal industry after arms and drugs and accounts for billions of dollars annually. Statistics indicate that 2 million children are lured or abducted into sexual exploitation, which is modern-day slavery. A report by Ending Child Prostitution and Trafficking, ECPAT, International states child sex tourism has drastically increased. It is a real incongruity that we speak about children and sex tourism in the same sentence. One of the main reasons is that the increase in global travel has created more opportunities for abuse. The offenders are generally white, western middle-aged men of some means. There are also women offenders and we also have situational offenders. The promotion of tourism for economic growth in these poorer countries brings more and more westerners to places with little or no regulation or policing but more and more children available for sex. We know the countries involved are India and counties in south-east Asia, Latin America, the Caribbean and Africa.

There have been many high-profile cases but I will mention one that I have already mentioned when speaking on this issue. This is the case of a seven year old child who was sold to a former US marine. The former marine was eventually extradited from south-east Asia and is serving a very extensive prison sentence in the United States. We also have records of the sale of virgin girls and organised sex rings. There is evidence of organisations offering sex tours with stops at bars and restaurants that are fronts for child prostitution.

The impetus for the Bill came from meetings with Irish priest, Fr. Shay Cullen, who is directly involved in rescuing children from the sex tourism industry in the Philippines and supporting children affected by it. We all know the physical, emotional and psychological consequences for children. There have been cases of suicide, attempted suicide, depression, addiction and sexually transmitted illnesses. At a press conference I was at with Fr. Cullen he spoke of what has been happening through the dark web and the rise in child pornography. To join a photo sharing paedophile club on the dark web, applicants must submit pictures of children being abused. Some clubs insist on the applicant showing himself perpetrating the abuse. To get the images, men travel to countries where there are ample opportunities to photograph and video such abuse. The images then give them a pass to access further unlimited images. This requirement to provide pictures is fuelling travel to poor countries. We know that cybersex is on the increase. Fr. Cullen spoke about five and six year olds being abused in this way over the

Internet. The abuse is carried out to order and customers around the world pay per view through money transfer companies.

I will give another example from Australia. In 2017, it emerged that 700 to 800 Australian male convicted child sex offenders were travelling annually to countries in south-east Asia, such as the Philippines, Cambodia and Thailand. Following this revelation, the Australian Government passed the Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017. It was introduced in the Australian Parliament on 14 June 2017, passed both Houses on 20 June and received assent on 26 June. It allows a competent authority of the Australian Government to request its Minister for Foreign Affairs to refuse to issue, cancel or order the surrender of a person's Australian passport if his or her name is on a child protection offender register. This is to prevent reportable offenders from travelling overseas to sexually exploit or abuse vulnerable children.

This is a tricky situation for which to legislate because of the constitutional right to travel. Although it is wonderful to have this right to travel, it was never intended to grant a right to travel to a person to abuse children in other countries when that person has been convicted of child sexual abuse in his or her own country. The purpose is to regulate and restrict where appropriate sex offenders from travelling abroad in the interests of the common good and to protect persons outside the State from serious harm. It seeks to do this by increasing the powers of judges. It is not an outright ban on travelling. It relates to those convicted of child abuse, whether a physical act of abuse of children or using child pornography films, child abuse images or recordings on phones. It recognises the constitutional right to travel but also the need to protect children abroad. The restriction provisions will be decided on a case by case basis by a judge who can weigh up the issues. There is a lot of constitutional protection. The convicted person is heard and represented and the judge can hear whether the offender has been genuinely engaging with a recognised rehabilitation programme. It will be the judge who will strike the balance between the Constitution and the protection of children outside Ireland from those convicted of child abuse in Ireland.

I suggest it is not so much about punishing the sex offender with regard to travel as protecting children. When we look at the facts of the growing child sex tourism to holiday destinations such as Poland, the Philippines and other places, I must question the current freedom of sex offenders to travel to these places. There is also the frame of mind of the offenders when they return to Ireland from a place that is normalising the abuse and exploitation of children.

There are just two sections in the Bill. It has a narrow remit for obvious reasons. It is focused on giving powers to judges. It empowers them on the evidence of child abuse to impose conditions and travel limitations at the time of sentencing or later, when the judge is satisfied there is or is not a risk of offending abroad. For example, a convicted sex offender may have leave to travel to England for a few days for a funeral or family event, but not to a country where there is known child abuse.

It is a small step, but it would be a clear signal that Ireland - we would be the first country in Europe to do so - does not want its child offenders to be in a position to offend in other countries where child abuse is happening with impunity.

Chairman: I thank the Deputy. On behalf of the committee, I record our appreciation for her efforts as an Independent Deputy in putting together this body of work and, perhaps, being the catalyst for why this matter is being addressed at all in the more substantive way, as it were, of the Government Bill before us.

I call Mr. Geiran to make his opening statement.

Mr. Vivian Geiran: I thank the committee for this opportunity to contribute to its deliberations on this legislation. I propose to highlight some key issues relating to our work with sex offenders, which may assist the committee. We will be more than happy to answer questions and engage in further discussion on any matter as the committee sees fit.

The Probation Service is an agency of the Department of Justice and Equality and the two primary areas of work undertaken by it are offender assessment and offender supervision. Regarding sex offenders specifically, since the publication of the discussion document of the working group on the integrated management of high risk sex offenders by the then Department of Justice, Equality and Law Reform in 2009, integrated, interagency and multidisciplinary services have been developed significantly. Our focus is now on effective risk management, incorporating assessment, supervision, support and the monitoring of sex offenders to reduce the risk of reoffending and the harm that any further offending would cause. The Probation Service is managing 264 sex offenders in the community.

The courts, prior to sentencing, frequently request a probation officer's pre-sanction assessment report on offenders who have pleaded guilty to, or been found guilty of, a sexual offence. The assessment report identifies issues relevant to the risk assessment and risk management of the offender. Many convictions for sexual offences attract an immediate custodial sanction. These sanctions may also include an appropriate community sanction element, with supervision conditions, post custody.

To improve the co-ordinated, interagency management of sex offenders, the sex offender risk assessment and management, SORAM, system was developed by An Garda Síochána and the Probation Service for the joint assessment and management of the risk posed within the community by convicted sex offenders. The model itself allows for enhanced working relationships between the personnel in relevant agencies, a structured approach to risk management, a co-ordinated intervention with the offender, higher levels of monitoring, higher levels of appropriate information exchange, more accurate risk assessment, and enhanced child and public safety.

The Probation Service welcomes the proposed new section 14A in the principal Act, or head 9 in the general scheme, that places on a statutory basis the assessment and management of risk posed by sex offenders. It will further strengthen the current SORAM arrangements and make obligatory the sharing of risk-relevant information between the relevant players.

Multi-agency approaches to managing the risks posed by sex offenders are essential. The Probation Service, in partnership with a number of non-governmental organisations and supported through the Department of Justice and Equality, provides a range of additional support services to assist further in the management of risk posed by this category of offenders and their reintegration into society. We have outlined some of those in our submission.

Placing the victim at the forefront of our work is critical, and developing a victim perspective in the offender is paramount. While our expertise is directed primarily towards offender rehabilitation as a means of reducing victimisation, we recognise that focusing in this way on the offender can lead victims to feel that their safety, rights, needs and interests may not be prioritised. This should not be the case. Survivors' advocacy groups work closely with us on initiatives, such as Circles of Support and Accountability, CoSA, and our therapeutic group work programmes. Other restorative justice approaches include victim-offender media-

tion. We facilitate such approaches where appropriate, but only after careful, and often lengthy, preparation.

Public protection is the key principle underpinning the management of sex offenders sentenced to prison and under the supervision of the Probation Service. Therapeutic interventions in prison are in place, including individual and group counselling and offence-focused work from the Irish Prison Service's psychology service, in partnership with the Probation Service. Within the community, the SORAM arrangements provide for an integrated, multi-agency approach to this work. Both statutory and non-statutory partners collaborate in this endeavour.

It is hoped that changes to the legislation, as proposed, will lead to further developments in responding effectively to sexual aggression and violence. Such refinements to the Sex Offenders Act 2001 will, among other things, strengthen the ability of statutory agencies to manage sex offenders by placing SORAM on a statutory basis.

Chairman: I thank Mr. Geiran. I convey our gratitude to the Probation Service for the preparation of the even more substantive body of work that it has presented in the circulated statement.

Before I introduce Assistant Chief Constable Gray, I have just noted the fact that not all of my colleagues are identified in lights. Senator Conway and Deputy O'Callaghan's names are there, but there is a glitch in the electronics. I could not let the moment go by without introducing Deputy Wallace, whose name is not up in lights this morning, but he is here.

Deputy Mick Wallace: Hello everyone.

Chairman: Also present are Deputies Clare Daly and Ó Laoghaire. We will try to have the electronics sorted for next week's meeting.

Without any further ado, I invite Assistant Chief Constable Gray to make her opening statement on behalf of the PSNI.

Ms Barbara Gray: I thank the committee for the warm welcome. I am the assistant chief constable with responsibility for the crime operations department, which covers our organised crime, serious crime, public protection, intelligence, and specialist operations branches. I am relatively new to the post, having just taken it up in September. With me are Detective Chief Superintendent Paula Hilman, who is the head of the PSNI's public protection unit, and Detective Superintendent Ryan Henderson.

It is important to put on the record an apology. Mr. Alan Smyth from the Northern Ireland Prison Service, NIPS, and chair of the strategic management board, which is under our public protection arrangements, would have liked to have attended. Unfortunately, he cannot. The board encompasses some of the multi-agency work that we do.

The Criminal Justice (Northern Ireland) Order 2008 established the statutory basis for public protection. These arrangements are known as the public protection arrangements Northern Ireland, PPANI. In England, Wales and Scotland, similar arrangements are known as multi-agency public protection arrangements, MAPPA. The arrangements involve agencies working together and sharing information to better protect the public in a co-ordinated manner. However, the legislation does not form a corporate body to deliver these. The relevant criminal justice agencies, such as the police, NIPS, probation service, the health and social care trusts and others, deliver on their own statutory responsibilities and obligations relating to public pro-

tection in a joined-up and co-operative way. It is important to note that the public protection arrangements do not replace existing child protection procedures.

The PPANI are governed by a strategic management board, which comprises senior managers from all lead agencies and two lay advisers. The board is chaired alternately, on a rotational basis, by the PSNI, the Probation Board for Northern Ireland, PBNI, and the NIPS. Currently, it is chaired by NIPS, with responsibility transferring to the PSNI and Detective Chief Superintendent Hilman in April 2019.

There are a number of eligibility criteria for inclusion within the public protection arrangements. It includes persons who are subject to the notification requirements of part 2 of the Sexual Offences Act 2003 or who have been convicted of a sexual offence or sexually motivated offence and are not subject to the notification requirements of part 2 of the Sexual Offences Act 2003 but about whom an agency has current significant concerns. It includes persons who have from 6 October 2008 been convicted of a violent offence, including homicide against a child or vulnerable adult or who have a previous conviction for a violent offence against a child or vulnerable adult and about whom an agency has current significant concerns. It includes persons who have from 1 April 2010 been convicted of a violent offence, including homicide in domestic or family circumstances or who have a previous conviction for a violent offence in domestic or family circumstances and about whom an agency has significant concerns. From 1 July 2013, new referrals into PPANI of violence in a domestic or family circumstance must have a minimum conviction of assault occasioning actual bodily harm, AOABH. It also includes persons who have from 1 September 2011 been convicted under certain circumstances of a violent offence, including homicide, and received an enhanced sentence and where the offence has been aggravated by hostility, and about whom an agency has significant concern. Persons subject to a risk of sexual harm order, RSHO are also included.

Within the PPANI arrangements offenders are categorised as category 1, 2 or 3. Persons in category 3 are deemed to pose the highest level of risk of harm. Where an offender is assessed as meeting the criteria for category 3, management of the case is allocated to the co-located public protection team, PPT. The PPT consists of line managers and practitioners from the PSNI, PBNI and the Belfast Health and Social Care Trust. The aim of the PPT is to provide for a consistent level of management of risk for those offenders in the community who represent the greatest cause for concern. The different disciplines within PPT allow for the delivery of a tailored risk management plan alongside an individual intervention and support plan aimed at developing the offender's internal controls.

Each year PPANI is required to produce an annual report outlining the work undertaken by the relevant agencies involved in public protection. It has recently published an analytical profile of offenders subject to PPANI arrangements. The policy and working arrangements for public protection in Northern Ireland are contained within the comprehensive PPANI manual of guidance.

Turning to the aspects of the proposed legislation highlighted within the invitation for today, I thought it would be helpful to highlight some pertinent points. With regard to notification requirements, in Northern Ireland the Sexual Offences Act 2003, as amended, requires all PPANI eligible offenders to notify within three days of being informed of their requirement to do so. The three days starts at midnight on the day they were informed. To notify they must attend at a police station. They are required to notify a number of matters, including an address at which they will be living, details of any absences of more than three days from that address, travel arrangements and accommodation arrangements during their absence, and proposed travel ar-

rangements outside the United Kingdom. They are also required to provide fingerprints and permit a photograph to be taken to confirm their identity. These requirements work well in practice.

Offenders are encouraged to disclose details of their offending where appropriate and allow this disclosure to be verified. If an offender refuses, or the disclosure cannot be verified, then existing agency powers will be used, such as child protection protocols utilised by social services colleagues. If no power exists, then a PPANI disclosure form will be commenced. In such cases the PSNI Chief Constable is responsible for making the decision regarding disclosure.

The Justice Act 2015 also introduced the child protection disclosure arrangements. Under these arrangements a person may apply for conviction information where there are concerns regarding a named person and named children. If the criteria are met, then disclosure is made to the person best placed to safeguard the child. We believe these arrangements work well in practice.

There is no specific legislative provision for the electronic monitoring of sex offenders pre or post conviction in Northern Ireland. There are, however, general powers relating to electronic monitoring applicable to all offenders. The basis for electronic monitoring of offenders in general is found within the Criminal Justice (Northern Ireland) Order 2008. The legislation provides the power to impose a curfew or electronic requirement where a condition of bail is granted by a court, where a condition of a licence is specified in article 35(b) of the order, and where it is a requirement of a probation order or youth conference plan.

Foreign travel orders are set out in the Sexual Offences Act 2003, as amended. Where there are concerns that a specific child, or children in general are at risk of serious sexual harm from an offender, we can apply to court for a foreign travel order which prohibits the offender from travelling to the specified country or any country outside the UK. The offender will be required to surrender his or her passport. The offender must be a qualifying offender, which in the main is an offender who has committed a sexual offence against a child or offences relating to indecent images or material relating to a child. To meet the threshold for a foreign travel order there must be grounds to believe that the offender travelling to a certain country poses a risk to children.

It is our understanding that there are no current plans for legislative change in Northern Ireland in terms of the management of sex offenders. If any such changes were planned, consultation and implementation would be progressed through the multi-agency public protection arrangements and the strategic management board which will be chaired by Detective Chief Superintendent Hilman from April of next year.

Ms Caroline Counihan: I thank the committee for inviting a representative from the Rape Crisis Ireland Network to speak here today. We are very grateful for the opportunity. We have two major areas of concern when it comes to sex offenders. We must do all we can, even if it amounts to little, to help ensure that the risk from sex offenders in the community is reduced as far as possible and that those responsible for their monitoring, support and supervision have the range of powers necessary to enable them to do their job. The second concern is perhaps more nebulous, but it is very important. We are concerned to do as much as possible to ensure that victims of convicted sex offenders do not feel vulnerable or powerless once the person responsible for the offence committed against them is released into the community. We have to ensure that those victims know that things are being done. Perhaps in certain cases more can be done.

We very much welcome these two pieces of legislation. The general scheme seems to be very comprehensive. I will go through a few of the heads to highlight some of our recommendations and to provide the rationale for them. On head No. 5, notification requirements, we welcome the broadening of powers. Over the years we have heard much from various members of An Garda Síochána about the vagueness of the current Act on the exact detail of how reporting should take place and what happens in special situations, for example, where a person is homeless, disabled or detained outside the jurisdiction. Over the years we have heard much from members of An Garda Síochána about the vagueness of the Act with regard to the exact detail of how reporting should take place and what happens in special situations where somebody is homeless, disabled or detained outside the jurisdiction. There is much clarity, which we welcome. The committee might consider including an extra requirement of notification so a sex offender would have to provide any address at which he regularly resides and stays as well as his main home address when he goes to notify a particular member of An Garda Síochána.

We have also singled out head 9. I echo what the representatives of the Probation Service said. It is good that the process of risk assessment and risk management has been finally put on a statutory basis. It is very important there is effective liaison with local NGOs that support victims, not just rape crisis centres but others. Why is that important? It is important to our clients. It is important they are well informed and informed by the responsible officials about what is being done to supervise and monitor sex offenders in the community. It is also important that, heaven forfend, they have concerns in the future about the behaviour of a particular individual they know what to do with those concerns. The general principle is to try to counter the culture of fear, the feeling that one is helpless and the idea that while it is not right for people to take the law into their own hands, it is understood why they did it. We have to counter that in the interests of good risk management. With regard to the way it is drafted, with great respect to the drafters, the risk management role, which is important and which goes on for a long time, should be stressed in the language a bit more. Perhaps they should be called risk assessment and management teams. We also suggest there is a mechanism for receiving information from third parties. Sometimes people come into possession of information and think it is really scary and are not sure what to do with it. It would be great if there was a place they could go with it.

With regard to head 10, disclosure of information, a number of brakes are put on the process of disclosure where there is a risk of vigilante activity as a result of the disclosure. Another thing that should be included on the list - I am sure it is at the forefront of the minds of the gardaí in question but it is no harm to include it - is a brake on disclosure where there is a risk to a present or potential future investigation or prosecution. It would be devastating for survivors if a possible prosecution were jeopardised by misuse of information which had been disclosed in this manner. Consideration should be given to a sanction for misuse of information.

I will come onto the Bill in a minute but with regard to the general scheme and head 18 on prohibition orders, it is very welcome there is a proposal to introduce orders preventing people who have been convicted of a sex offence from working with children or vulnerable persons. I have two comments about that. The first is a general one. Should these orders not be coextensive with notification requirements so that as long as a person is a sex offender he or she should be precluded absolutely from working with children or vulnerable persons? I am also concerned about the way it is drafted. As it is drafted, I am concerned about situations in which somebody is convicted of a sex offence for which the maximum penalty is not life, for example in the case of sexual assault and a maximum sentence of ten years. If a person gets a high sentence, for example eight years, because the person is a repeat offender or was found guilty of an extremely serious assault, with remission that person will be out in six years. The

remaining possible term of the prohibition order cannot go beyond the overall maximum of ten years. Therefore, the person will be precluded from working with children for only four years. It is almost as if that person gets a reward for behaving worse. It cannot be the intention of the legislation. With great respect, I suggest the simplest way to fix it is just to make prohibition orders similar to notification requirements so that one is subject to them as long as one is subject to notification requirements.

I will make one final small point on the general scheme about the discharge of orders. It has come to our attention several times that people who have been the victims of sex offenders get very upset when these offenders apply, for instance, to no longer be subject to notification requirements. There are several places in the general scheme as in the current legislation where there are discharge provisions. I have no objection to people applying for discharge but I think it is right in any of these applications that somebody would get the opportunity to be heard as a victim of sexual violence. It should be in there.

We welcome Deputy O'Sullivan's Bill in principle. It is a terrific idea. I note with great interest what is happening in Northern Ireland. Surely if it happening in Northern Ireland it ought to happen here. I have a small concern. Perhaps I am wrong to have this concern but nevertheless I have it. I wonder if it should not be framed in a more tight fashion so there is a clear threshold as there is under the proposed section 26C on prohibition orders and as it is framed in the Northern Irish foreign travel orders that there should be a threshold that has to be overcome before such an order can be made. I say this being mindful of the right to travel in the Constitution. My thinking is it might be wise to insulate this provision as far as we can from attack on the grounds that it is unconstitutional or oppressive because it would be great to have it. It would be a terrific addition to the armoury that we already have. I thank the committee for its patience.

Chairman: I thank Ms Counihan. We also record our thanks to the Rape Crisis Network Ireland for its submission. Dr. Fitzgerald-O'Reilly is our final guest speaker. Before I invite her to speak, it occurred to me that on a number of occasions over the course of the year a representative of the University of Limerick school of law has occupied a seat before the committee. There must be something special going on down in Limerick in this regard. In following her colleagues who have been with us before, Dr. Fitzgerald-O'Reilly is very welcome. I invite her to proceed.

Dr. Margaret Fitzgerald-O'Reilly: I thank the committee for inviting me here today. I very much welcome the opportunity to be able to discuss the changes proposed under the Sex Offenders (Amendment) Bill and the Private Members' Bill. I will focus on three of the proposed amendments today. The first is on the Private Members' Bill, the purpose of which is to regulate and restrict sex offenders from travelling abroad in order to protect persons from serious harm outside of the State. The proposals echo similar provisions available elsewhere, including the UK, the US and Australia, which have in some way sought to ban or restrict the travel of sex offenders abroad. The rationale for such provisions is that individuals who have offended against a child pose an extremely high risk of re-offending and that these laws will stop them from doing so. Perceptions of dangerousness are overestimated to some extent and studies in Ireland and elsewhere have shown that recidivism among sex offenders is low. The effectiveness of such laws are also in doubt. In 2016, a global study on sexual exploitation of children in travel and tourism found that sexual exploitation of children in such circumstances is a mainly domestic and intra-regional crime and that situational and domestic offenders account for most cases of such abuse, rather than international preferential offenders. While some

abusers are paedophiles, most are not. Most are situational offenders, namely, those with no prior history of sexual offending against a child. While child sexual abuse and exploitation is, and should be, an important policy concern for lawmakers, it does little good to enact laws and impose requirements such as travel bans or restrictions when there is no evidence to suggest that such laws are effective in reducing the risk to those they aim to protect.

It is necessary to consider rights such as the right to travel, the right to liberty and the right to privacy and family life under both the Constitution and the European Convention on Human Rights, ECHR. Constitutional and-or human rights violations may be found as a result of arbitrary, unnecessary and disproportionate interference with such rights. In particular, these provisions could give rise to an unjustifiable interference with privacy and family life under Article 8 of the European Convention on Human Rights and, perhaps, with earning a livelihood where the individual has to travel for work or to enjoy family life, for example, in a cross-jurisdictional context. If restrictions rather than a ban are to be placed upon travel, it needs to be made clear how these will be imposed and implemented so that they will not be considered to be arbitrary and unnecessary. Any restrictions imposed will require increasing the quality, quantity and regularity of the information shared with other jurisdictions on child sex offenders in order to effectively oversee the movement of offenders who travel abroad. At a practical level this may be difficult to achieve because it becomes a resources issue. Overall, I would suggest that the circumstances which would give rise to these restrictions need to be clearer; an evidence-based risk should exist and the restriction or ban must be deemed to be proportionate and necessary in all the circumstances. This could be expressly incorporated into the wording of the provisions.

My second point is on Head 10 of the main Bill, which deals with community disclosure. I welcome legislative clarity relating to the disclosure of information to the public, as well as the controlled disclosure approach being proposed. Generally speaking, disclosure laws are enacted with the objective of preventing recidivistic sex crimes. Such laws may garner strong support in the belief that knowing where sex offenders are will make us safer. However, the effectiveness of disclosure in this regard has been called into question by countless studies. Empirical research has not uncovered any demonstrable effect on future sexual offending. Moreover, rather than reduce fear, disclosure in some circumstances can heighten the fear and anxiety of persons who have received such information. There is a need for follow-up support in such circumstances.

The wording of the proposed provision seems to suggest that the issue of disclosure rests with the Garda and is thus proactive rather than reactive. I would like clarification on whether the provision intends to be reactive in the sense of permitting applications from parents, guardians or third parties. While the proposal is not confined to the protection of children insofar as it aims to protect any person, it is worth noting that equivalent provisions in the UK provide that disclosure will only be made to the person-persons best placed to protect the child or vulnerable adult rather than to the public at large. I would strongly suggest consideration be given to the inclusion of such wording in the context of this provision as well, where it involves protection of a child. Moreover the provisions does not make any mention of confidentiality of the information once a disclosure has been made. This is notable, considering that under Head 9, confidentiality is expressly required in relation to information sharing, albeit in a different context. Confidentiality should apply, in particular with regard to data protection laws. This should be incorporated into the proposed amendment. Overall, the provision should expressly provide that disclosure will only be made in exceptional circumstances where considered necessary and proportionate to do so.

My final point relates to Heads 13 and 19, which provide for electronic monitoring of sex offenders, either as part of a sex offenders order or as a condition of post-release supervision. The rationale of such a measure appears to be to monitor compliance or identify risky behaviour. While measures such as electronic monitoring may provide reassurance and are argued to have a deterrent effect, such a measure also raises legal and ethical concerns. Any scheme which proposes to introduce tagging of those who have already served their sentence raises the issue of additional punishment, possibly in breach of the constitutional principle of proportionality. Tagging is far more intrusive than signing on at a Garda station and it has a greater impact upon privacy and freedom of movement rights. A way of reconciling such constitutional concerns could be to incorporate the measure as part of a remission scheme whereby early release may be granted in conjunction with tagging. Alternatively, the courts could be required to take electronic monitoring into consideration when sentencing and thus ensure proportionality in the combined overall sentence. The effectiveness of this measure, in terms of deterrence or preventing recidivism, is empirically unproven. Evidence that it reduces recidivism is scant and experience in other countries on a more general level and in regard to monitoring of high risk sex offenders has demonstrated that it has significant limitations in this regard. There is limited evidence available in the US and in some jurisdictions in Europe to support the contention that the tagging of high risk sex offenders may be useful in terms of ensuring compliance with registration requirements but such measures have no perceived effect on recidivism. Where monitoring reveals a new crime, this tends to be in relation to a breach of registration requirements rather than sexual re-offending. The research shows that electronic monitoring is not cost effective and, moreover, that knowledge about offenders' whereabouts will not necessarily effect change in underlying criminal behaviour. The support for electronic monitoring has been described by some as a "belief in a technology-focused approach as a 'silver bullet' to solving crime and other social problems" but that this provides a "misleading assurance of safety." Electronic monitoring is a short-term solution and while it may address some immediate concerns in relation to individual high risk sex offenders, it does not provide the means for effectively dealing with sexual offending behaviour in the long term. The best available evidence suggests that monitoring is more effective when it is carefully targeted and integrated with other forms of supports and risk management. Given the lack of research in this area with regard to the effectiveness of tagging and its impact upon the monitored person and his or her family, there is a strong argument to be made that there should be an inbuilt evaluation of the impact and effectiveness of this initiative if introduced.

There are significant gaps in our knowledge of whether these and other sex offender laws have any effect in terms of reducing sexual offending or reoffending behaviour. Sex offenders are most certainly not a homogeneous group. They vary considerably in terms of their characteristics and level of risk. What is sorely needed are empirically derived risk assessment procedures that will help us to target and more effectively manage those at highest risk of sexual re-offending.

Chairman: I thank Dr. Fitzgerald-'O'Reilly for her thoughtful contribution to the committee's deliberations.

Deputy Jim O'Callaghan: I thank all of the delegates for being here today and for the considerable amount of effort they put into their submissions. They will be of great assistance to members during our consideration of the legislation as it progresses through the Houses. This is a difficult issue. I am conscious that all of the witnesses look at it from the point of view of problems arising. For example, those in the Probation Service will look at it from the point of view of persons who have been convicted, An Garda Síochána will look at it from the point of

view of persons who have made complaints that are being investigated, and the same applies in the case of the Rape Crisis Centre when a client presents to it. What we are dealing with is sex offenders when a problem has arisen. Our primary concern is to protect victims but we must also be careful that we do not categorise a group of offenders as being beyond the pale and not capable of rehabilitation.

Deputy Maureen O'Sullivan's Bill seeks to provide the State with the power to restrict a person from travelling. Dr. Fitzgerald-'O'Reilly said in her opening statement that the purpose of the legislation appears to be to try to prevent individuals committing criminal offences in other jurisdictions. Is she aware that this provision is already on the Statue Book?

Dr. Margaret Fitzgerald-O'Reilly: Yes. There is nothing wrong in targeting individuals where there is evidence to suggest that their travelling abroad poses a specific risk. We need to have a balanced approach and that involves looking at whether making that restriction or prohibiting that person from travelling is necessary and proportionate in all circumstances. We need to take into consideration the purpose of the travel. As I mentioned, in the context where somebody must travel to enjoy family life where he or she works in a different jurisdiction, the purpose of the travel becomes important. Perhaps it is something that could be incorporated into a redrafting of this amendment.

Deputy Jim O'Callaghan: Okay.

Dr. Margaret Fitzgerald-O'Reilly: It is more about targeting high risk as opposed to assuming that every sex offender will pose a risk of sexual reoffending once he or she travels abroad. If such people want to go on holidays with family members, we need to have some sort of evidence-based risk to ensure protection.

Deputy Jim O'Callaghan: I am sure it is also the case that many people who go abroad and sexually abuse children have never had a criminal conviction here. They are probably as big a threat as people who have been convicted.

Dr. Margaret Fitzgerald-O'Reilly: Absolutely. That is what the global study conducted in 2016 demonstrated. It received submissions from countries all over the world, including America, Africa, Russia and countries from Europe. The vast of those countries were the same in saying the majority of abuse occurs in a domestic setting and comes from offenders who have access to their victims in that domestic setting, or situational offenders. It is worth noting in that context military personnel who are resident in a jurisdiction for a time or people who travel for the purpose of enjoyment. They may feel they are not subject to the same laws because there is such a prevalence of child abuse in those circumstances. It is about how we can best protect children from those types of offenders. These types of law will not do it because they do not target such individuals.

Deputy Jim O'Callaghan: Okay. I was looking at head 10, the new section 14B on disclosure. Does Ms Counihan have any concerns about how this could in a way drive sex offenders underground? It is for the public benefit as there may be a threat to individuals so the Garda would inform people nearby of what happens. If that becomes common, many sex offenders will not stay registered and they will drift into the ether and not make themselves available to the State. Is that a concern?

Ms Caroline Counihan: It is a major concern. I did not concern myself too much about it on this occasion because I was thinking that if it was all going to be in the control of the Garda

and it would set the rules - in effect saying when, to whom and how much shall be disclosed - I cannot imagine it would be done without consultation with the local sex offender risk assessment and management, SORAM, first, last and always. In that context I have fewer concerns, although I have a general concern about that happening. The worst possible thing I have always heard, both from probation and gardaí involved with the management of sex offenders, is when offenders go under the radar, as that is when the risk can escalate very dramatically and quickly. I am concerned about who is going to get this information and what they will do with it. It cannot be misused. There should be some form of penalty for misusing the information. Dr. Fitzgerald-O'Reilly suggested there should be something in there about confidentiality and it is a very good idea.

Deputy Jim O'Callaghan: Does the Probation Service have any concerns about the idea that people may be driven underground if there is a capacity for disclosure?

Mr. Vivian Geiran: I certainly have that concern. On the earlier point, the Deputy is absolutely correct in saying that by definition, in both items of legislation we are dealing with people who have been identified, convicted and so on. It is certainly the reality. If I can borrow a phrase from Dr. Fitzgerald-O'Reilly, there is no silver bullet, legislation or technical measure like electronic monitoring that would, in itself, stop offending. This needs to be couched in the systemic approach.

With regard to the idea of driving people underground, it is a serious matter that we face, as Ms Counihan mentioned, on a regular basis. Offenders coming from prison under our supervision, for example, are sometimes followed from the prison to our office by sections of the media and so on and they can subsequently have their location outed. As a result they may go underground, which is certainly a difficulty and does not help in any way the rehabilitation process.

Deputy Jim O'Callaghan: They are a bigger threat to the public when they are underground and the office does not know where they are.

Mr. Vivian Geiran: Absolutely.

Deputy Jim O'Callaghan: I thank Assistant Chief Constable Gray for coming down. We have electronic monitoring on the Statute Book but it has only been used really on a pilot basis. In her statement, Ms Gray has said it is not used exclusively for sex offences but rather for general offences. Is it used for the purpose of monitoring people on bail in Northern Ireland and as a condition for that bail?

Ms Barbara Gray: Yes.

Deputy Jim O'Callaghan: Okay.

Mr. Ryan Henderson: It is used in the pre-court phase and can be used by the court as an alternative to being remanded in custody.

Deputy Jim O'Callaghan: It is important and sometimes when people present monitoring, it is seen as an additional penalty. Our contention is that it should not be seen as an additional penalty but rather as an alternative to incarceration. Sometimes that is the way it operates in Northern Ireland.

Mr. Ryan Henderson: Yes. In the post-sentence and release phase under licence, it similarly can be used as an alternative to a longer term of custody, for example.

Deputy Jim O'Callaghan: I am the Fianna Fáil spokesperson and we work collectively as a committee. I am supportive of both items of legislation but it is a really complicated and complex area. We must be careful in how we approach this. The witnesses all get involved after a problem has arisen but there is a bigger question for society as to what is causing people to engage in sexual offences and attacks. This generation of young people is exposed to pornography on the Internet and other technology to a greater extent than any previous generation. We do not know, as of yet, the impact, particularly on young men, that the prevalence of pornography and the very submissive and malleable way it presents women, has on the development of sexuality. It is an area in which we need to do considerable research. I welcome that the Minister has said we will have a new Sexual Abuse and Violence in Ireland, SAVI, report. As the witnesses have indicated, there is no simple solution to this but research is the answer. It is important that we do not categorise people who are sex offenders as people who should be put in the bin and that we should never seek to rehabilitate them. I know nobody is suggesting that but it is a difficult concept. The first requirement is to protect the public. It is interesting that the recidivism levels for sex offenders are considerably lower than for burglary, for example, or crimes of property. That is my understanding. Am I wrong about that?

Ms Caroline Counihan: I cannot give the Deputy chapter and verse on the statistics but a study was done indicating low levels of recidivism after four years. It went into a discussion and there was reference to various other pieces of research. If the period is extended, the recidivism rate goes up. It is also very important to distinguish between reoffending and reconviction. We should not forget that sexual violence is not often reported, even with very good supports.

Deputy Jim O'Callaghan: That is a fair point.

Ms Caroline Counihan: Therefore fewer people would report it for a variety of reasons. Reports, investigations, prosecutions and convictions cannot be the only measure. It is not the same as reoffending. The only thing that is concrete is the reconviction rate but it is the least likely outcome.

Deputy Jim O'Callaghan: That is correct.

Mr. Ryan Henderson: If the Chairman does not mind I will return to the matter of disclosure and give a practical illustration. The legislation we are discussing is incredibly important as it gives preventative parameters to offenders and some high-level powers of last resort. There are layers of process and practicality underneath. The key relationship is that with the designated risk manager or offender manager. Our processes are based on encouraging voluntary disclosure and encouraging the offender to take ownership of some of those decisions. In reality, getting to the legislative power is very much *in extremis* and very rare because there are other processes of nurturing and coaching. The same applies to the notification requirements. We very much see our role as supporting offenders in respect of knowing what they are required to do. The legislation is not simply the thing that is controlling the management of sex offenders. In practical terms, that individual relationship is very important.

All of the things the Deputy said about disclosure considerations and being really concerned about how that information might be used are very important. We do not see sex offenders going to ground for fear of disclosure because of that relationship we have.

Chairman: I should have said this at the outset, but, while Deputy O'Callaghan was being particular to each of the witnesses in turn, if any witness wishes to add a supplementary point,

just indicate and we will most happily involve you.

Deputy Clare Daly: I thank the witnesses for coming in. I will have to leave for a priority question in the Chamber. I will be back but I am sorry for the disruption.

This is an incredibly important discussion, and a really difficult one because there is nothing like sex crimes, particularly in relation to children, to raise the hair on the back of everybody's neck and get everybody up in arms. We know that, because of the abhorrence of the crime, identifiable sex offenders have been beaten up, targeted, driven out of their homes and all the rest of it in massive scare tactics which actually do not do anything at all to protect anybody. It is that gut reaction.

These items of legislation dealing with known sex offenders, in other words a tiny minority of the people who commit sex crimes, in the manner in which we have heard evidence today, probably do so in an ineffective way. It is difficult to police. Are we wrong to table these now in a piecemeal approach? Are we giving the illusion that such legislation gives a protection it in fact does not? Would society not be better served by having that broader discussion of the supports that are necessary to try to find out why people commit these crimes and how we can address that? Is the legislation, in that sense, premature and unhelpful? On its own, what will it achieve? That might be a bit dramatic, but I throw it out there.

Chairman: To whom would Deputy Clare Daly like to direct that question?

Deputy Clare Daly: Anybody, really.

Mr. Brian Dack: We think the placing of sex offender risk assessment and management, SORAM, on a statutory basis is very important. We have been operating SORAM on an administrative basis since 2010 and we have had a lot of contact with our colleagues in Public Protection Arrangements Northern Ireland, PPANI, and a lot of what the assistant chief constable has spoken about is mirrored in the administrative way we do things. Increasingly we have brought other partners into the SORAM arrangement. While it started with An Garda Síochána and the Probation Service, we now have a national steering committee representing the Probation Service, An Garda Síochána, the Prison Service, Tusla, the Child and Family Agency, the local authorities through the local authority manager and survivors' advocacy groups at that national level. We have a joint, co-located office which has An Garda Síochána, the Probation Service, Tusla, the local authorities and the Prison Service working together in Harcourt Square.

We also work closely with the NGO sector because it provides supportive facilities to the sex offenders that we deal with in the community. To put it on a statutory basis would be very helpful for us, because it would allow increased co-operation and communication between us. While I take the point that changes have taken place in different items of legislation, we would certainly welcome this particular aspect being brought forward.

Mr. Vivian Geiran: Mr. Dack has described the specifics of the sex offender risk assessment and management and, while I said earlier that there is no silver bullet, I would not want people to go away thinking that legislation is not important. The Sex Offenders Act 2001 is foundational and progressive legislation that helps all of us working in this sphere to assess and manage sex offenders. The two legislative items currently being considered would represent significant updates to that Act. I emphasise that legislation is one important foundation for the work we do and, as Mr. Dack said, it would put a certain element of what we do on a statutory basis, which would be welcome. The various other provisions would also be welcome.

Dr. Margaret Fitzgerald-O'Reilly: I echo those sentiments and some aspects of both Bills are certainly very welcome in the way they would improve the legislative quality of available laws to help address some fundamental issues. I understand the overall sentiment expressed by Deputy Clare Daly, however, because there must be a question of how best to protect the public and whether these laws provide the means for effectively protecting people from sexual offending or sexual re-offending. To answer that, we must look at the evidence produced in other jurisdictions. I am going to take the US as an extreme example. It is obviously a very different context and jurisdiction to Ireland but it has had notification rules in existence since the 1940s. Megan's law, the notable public disclosure law, passed its 20th anniversary in 2016. Studies conducted into the effectiveness of these sex offender registration and notification, SORN, laws demonstrate that there is no appreciable impact as a deterrent or reducing recidivism. There is no appreciable difference in recidivism rates in different empirical studies done in different jurisdictions between groups that are subject to these registration requirements and groups that are not. We must have regard to that. Consequently, in respect of effectiveness in helping to address the broader and long-term issue of sexual offending behaviour, it is right that we question whether things like notification and disclosure laws will help.

To some extent, in relation to issues of disclosure for example, the approach of controlled disclosure is to be advocated. I would certainly hate to see us move towards a widespread access, and I do not think that is being suggested at all, because it has been demonstrated to be profoundly unhelpful and counterproductive.

Sometimes the question is what propels people to sexual offending behaviour, when a more pertinent question might be what helps convicted sex offenders to stop sex offending; not just why they offend, but why did they stop offending. Again, we have to look at evidence available in other jurisdictions, as well as in the Irish context, that suggests it is through reintegration, reconnecting with society by reconnecting or maintaining family ties and through rehabilitation and engagement with those services and supports that help prevent recidivistic behaviour in the future. Preventing people from reoffending is ultimately what will be of benefit to our society.

Ms Paula Hilman: The prevent strategy is very important and the PSNI takes an approach with the two strategies of prevent and pursue running parallel to each other rather than looking at them in isolation. As part of the prevent strategy, we have identified two types of offending, that is, online and situational domestic offending. For the online prevent strategy, the PSNI tries to work collectively with the National Crime Agency to engage with service providers and with the education programmes for young people, parents and society about how to stay safe online. They are very important and there are things we are doing alongside that. We have identified among ourselves that the pursue strategy is about having the tools and the toolkit but applying those in a very risk assessed, graduated response.

Although some of the incidents that we have talked about are not frequently used by us, when we do use them it is with legal advice and through risk assessment. Having that tool to help keep young people safe is very important. As we have outlined in the presentation, we find that they work well with us in the North.

On research on reoffending, the Department of Justice in the North produced a research document in August this year. I think we have sent it to the committee as part of our documents but I will double-check that. That research gives evidence about reoffending.

Chairman: If we do not have that research it would certainly be a valuable tool in carrying out the work that we now have to do after this hearing. I thank Ms Hilman.

Deputy Clare Daly: That is really useful because my feeling is that we are framing this very much in the context of protecting the public and if we are to actually do that then it is critical that it is evidence based.

I want to ask the PSNI about the categories. Category 3 was mentioned as the highest level. Who decides the categories at that earlier stage? Who carries that out? Is that just the PSNI or is it at the interagency level? I would like a little bit more detail on who decides that. I know the speakers said that it was tailored to the individual and it is very helpful that it is done in a supportive and co-operative way with the offender in terms of the disclosure issues but the witnesses would presumably agree with the points made about confidentiality.

On the foreign travel orders, how many has the PSNI applied for? How does the PSNI approach that? Does a person have to tell the PSNI or how does that work?

Chairman: Does the Deputy want to ask a fourth question?

Deputy Clare Daly: I will not, that is it. I have received a text to say I have to be in the Chamber in a few minutes.

Mr. Ryan Henderson: One of the key bodies for us is what is called our local area public protection panels, LAPPPs, and that is the process whereby post-conviction and sentence, either upon release from prison or if the person is not going through a custodial sentence, that multi-agency panel meets and considers the risk. For example, pre-prison release there will be a LAPPP in prison that the prison will chair and we will be there alongside social service and probation colleagues, etc. and it goes through an actuarial assessment-----

Deputy Clare Daly: Is the offender part of it?

Mr. Ryan Henderson: -----of risk and that then leads to the categorisation. That happens for every offender and then it depends on the categorisation. For example, if they are categorised at level 2, which is higher than a medium risk but is the middle category of the three, then there is another LAPPP 16 weeks later to reassess the level and degree of risk. That gives the individual tailoring.

For those who are the highest risk, category 3, upon their release I chair what is called a multi-agency planning meeting. That is as described with LAPPP but it is very specific and tailored around the individual who we consider poses a real risk of reoffending. That is the process really.

Deputy Clare Daly: Is that LAPPP one person or a number of people?

Mr. Ryan Henderson: It is a number of people. It is done as we-----

Deputy Clare Daly: So one person would not decide the assessment.

Mr. Ryan Henderson: It is as we are now, sitting around a table. Each of the bodies brings forward its information. The prison for example-----

Deputy Clare Daly: With the offender present?

Mr. Ryan Henderson: No, the offender is not present.

Chairman: I invite Mr. Dack to add to that.

Mr. Brian Dack: In this jurisdiction we would use some actuarial risk assessments as well as clinical judgment to make decisions on how we deal with people because the research tells us that those who pose the greater risk demand greater intervention and greater concentration and those who are of a lower risk are dealt with in what we call a single agency way. They would have either a probation officer or a Garda case manager dealing with them and they would not be part of the SORAM process.

We use two risk assessments in particular. There is a static risk assessment called the risk matrix 2000, RM2000, which is based on historical information and that enables us to have a baseline categorisation in terms of low, medium, high or very high risk of reoffending over a longer period of time.

Then we go into what we call the stable and acute risk assessment. Going back to Deputy O'Callaghan's point about the causation, that risk assessment is much more intensive and it takes place with the offender over a series of interviews. It looks at a whole range of issues such as the offender's capacity for relationships, their hostility towards women for example, whether they are impulsive in nature and whether they have good problem solving skills. It then looks at the issue of sex and whether their sex drive and preoccupation with sex is a factor underlining their offending, whether they use sex as a coping mechanism and whether they have deviant sexual preferences.

That information is garnered and we use collateral information as well. We look at the book of evidence from An Garda Síochána, we work with the family of the offender where possible and if they have been in prison we liaise with our psychology colleagues in the Irish Prison Service and our integrated sentence managers and that enables us to build up a full picture. It is based on a relationship as our colleagues said so the better the relationship that we have with the offender, the greater the quality of information we have and that gives us the ability to target particular areas. An assessment is not just there to give a label and a category but the benefit of it is to figure out what the case management plan should be and what are the areas that we need to target which will ensure there is no reoffending in the future and that there are no victims.

We do that with An Garda Síochána and with our colleagues in the local authorities and in Tusla. We are all trained together and indeed some of our colleagues recently went up to Northern Ireland to train some of the Police Authority for Northern Ireland, PANI, people in the RM2000. There is a lot of co-operation between us but it would not be in isolation. Frequently and on an ongoing basis, it would be a member of An Garda Síochána and a probation officer who jointly meet with the offender and as much as possible it is a collaborative effort with the offender to move forward.

Chairman: Does Mr. Henderson wish to come back in?

Mr. Ryan Henderson: There were other questions asked. To be clear, our pre-process before getting to the actual panel is exactly as outlined, which are actuarial assessments of risk and the co-operation and joint training has been a real, tangible and great partnership in recent years around how we develop that together.

Deputy Clare Daly: On the foreign travel orders, how many has the PSNI processed and what is the story there?

Mr. Ryan Henderson: We have processed very few. In fact, in the past two years none has been applied for. I mentioned earlier how there is a tiering of approach. Within the notification

requirements in Northern Ireland, there is a requirement to notify around any intention to travel abroad. That is the first tier and the layering of armour to try to prevent the offender from going abroad to offend against children. The first aspect is those conversations with their designated risk manager. They know a lot about them to try to discourage that travel abroad. They have to notify and only then when there is a serious concern risk would an application be made and that is subject to judicial scrutiny. As outlined by earlier contributors, it is only in extreme cases because those other parts of the tapestry of tools and tactics have prevented us needing to go down that route.

Deputy Clare Daly: That is interesting. It strikes me that the disclosure end is particularly key. Mr. Dack outlined very well how when one works with someone, when one has the supports, family involvement and so on that it provides the best chance. In that context, the management of the information being disclosed is key in how the media and public react to sex crimes. It is understandable, because of how awful they are, but it is not helpful. It is critical that the only people who should have this information are those who need it for their protection and nobody else. Otherwise, we are fuelling all of that.

Legally, under data protection, there is a raft of rights. Is this a complicating factor? Has it been a barrier to developing some of these things?

Chairman: Does Deputy Daly wish to direct that question to anyone in particular?

Deputy Clare Daly: It is for anyone who wishes to answer. Data protection brings a new problem into the whole area of disclosure and is a new right that must be weighed up.

I must leave now. I will come back but the response will be on the record.

Mr. Vivian Geiran: Disclosure is a very sensitive issue and I agree with Dr. Fitzgerald-O'Reilly's points. She described how of the two pieces of legislation being considered by the committee, it is probably the provision that requires the most caution and care in how it is framed and its subsequent implementation. It has great potential for harm as well as good.

The general data protection regulation, GDPR, came into effect earlier this year. Within the legislation which implements the GDPR, there are specific provisions around the law enforcement directive and that is probably the main area in which we would be provided as criminal justice agencies in the sharing of information.

Chairman: I will explain again that as a result of sittings of the Chambers and other committees, members come in and out of meetings. It is just part of the madness of these Houses. I should also explain that none of the members' names is up in lights before him or her as we have experienced an electronic issue. We have introduced everyone else earlier but Senator Niall Ó Donnghaile has now joined us.

Senator Niall Ó Donnghaile: I apologise that I was not here for the presentation as I was at another meeting. I have a brief practical question on practices relating to information sharing, assessment and disclosure. Without getting too deeply into the politics, the practical nature of life has been that there is an invisible Border. Ironically, some people have exploited the Border. Families and communities straddle the Border.

My question relates to practical information sharing and the matter of assessment to which Mr. Henderson referred. Will it be possible to share information, and reach whatever conclusion based on that, on a cross-Border basis or will it be restricted to within each jurisdiction?

Ms Paula Hilman: I referred in an interview yesterday to how the crime we are discussing, particularly online crime, does not have borders. Online crime is happening on the other side of the world, with people viewing images in the UK and Ireland. We have very good information-sharing arrangements. We work very closely to share information with our colleagues in An Garda Síochána and in probation. Last month, some of our PANI co-ordinators were up training and using the same risk-assessment tools. This is about protecting children and the information-sharing protocols have been and are working well. It is something we have been examining but we do not see the legislation under which we work changing.

Ms Ita Burke: We equally have very good information sharing protocols with our colleagues in the Probation Board for Northern Ireland. We have worked on this for several years. Where we are on the one island where there is movement of offenders, it is something we need to manage very carefully. Data protection brings new challenges but we are working on written agreements. As Mr. Gieran noted, the law enforcement directives give us authority on that. We do it in two particular areas. One is court reports, where we prepare reports for courts in the North and *vice versa*, where our colleagues in the Probation Board do it for courts in the South. We have an information sharing agreement where we can exchange those. If offenders are moving between both jurisdictions, we remain in close contact, particularly in the area of sex offenders where it is of critical importance.

Senator Niall Ó Donnghaile: That is facilitated by the higher level regulations. In the context of this proposed legislation, should we look at anything specific on good practice in other areas around the world that would help bolster that work? Are the witnesses here reasonably content that information sharing is as it should be? Are there examples either in Europe or more broadly that would inform our legislation here in order to strengthen it? It might be too big a question for today's discussion but they might think about it and come back at a later stage.

Deputy Mick Wallace: I thank the witnesses for coming in. I came here to listen rather than to ask questions because we have much to learn. There are often knee-jerk reactions without enough thought. The PSNI assistant chief constable, Alan Todd, was before the committee some weeks ago and he was very interesting. We spoke about the challenges of mental health, the role played by the PSNI, and the amount of the service's time that is taken up with it. When I asked if he thought the service had sufficient training to prepare PSNI members to engage in such a complex area, he replied that the PSNI was probably doing more than it should be in the area and that others need to engage more. He said that one could not set out to train people for all the areas in which they now engage. Is there a problem in this when dealing with sex offenders? It must feel as though so much falls on the police service. Down here, the gardaí are often called to incidents where there is a mental health challenge dimension, often when other services are failing to do what we would wish of them or what they should. Do the witnesses think that there is too much on their plates to deal with this or do other organisations provide enough support for them to perform effectively?

Chairman: I would add that it was also in the context of NGOs and some of the State apparatus which provide a nine to five service, Monday to Friday. An Garda Síochána and the PSNI probably carry the can for mental health in the evenings and weekends. Youth behaviour in general terms was another critical area where much responsibility falls back on the respective policing services.

Ms Barbara Gray: Across different organisations, what we are really dealing with is vulnerability. We do a significant amount of training around dealing with vulnerability and seek to train officers and staff in recognising what potential vulnerabilities and risk areas may be for

individuals and how they best deal with that. That is very much our corporative focus. It is not possible for us to get very bespoke training on every separate issue. Within this field of sex offender management, it would be useful to get some input from Ms Hilman around the designated risk manager role which happens within this and how, as a multi-agency forum, it seeks to do much of the active management.

Ms Paula Hilman: I understand what Alan Todd, PSNI assistant chief constable, would have outlined. It was very much in response to the 24-7 uniformed police response to calls. By the time one comes into the arena of public protection, we are starting to work in the more specialist and higher level of offending. Undoubtedly, public protection is a growth area for the PSNI. The chief constable has said that. It is an area in which we have put more resources. We will continue to review both that and cybercrime. While the PSNI is reducing other areas of policing, increased resources are going into public protection, cybersecurity, critical neighbourhoods and well-being. Across all areas of public protection, such as management of sex offenders, child abuse, and social services, we have strong partner relationships and joint protocols. The nature of the work we are doing allows those partnerships to work well.

With the exception of our rape crime unit, we do get the volume of calls our uniformed colleagues get. Our partnership relationships and practices are good. They are mature, especially the child abuse ones and adult safeguarding. We are now moving into the latter arena and have joint protocols with that.

Our detectives get additional training in the area of work they are in such as child abuse, adult safeguarding and managing sex offenders. There is also a well-being strategy and how we look after our people. What they are exposed to, such as images and so forth, many other people will, fortunately, never be exposed to in their lifetimes. Our well-being strategy is above the PSNI strategy and how we support them to do that work. It is both the training, environment and their well-being, as well as working with partners in a collective approach to that.

Deputy Mick Wallace: Given the black-and-white approach used around this area, largely driven by a disappointing media, do the witnesses think there is enough training and education to bring a holistic approach from those at the coalface making decisions in the South?

Ms Ita Burke: We made a lot of progress in this area over recent years. We feel it is by working collaboratively in an interagency way with the Garda and our colleagues in the Prison Service that we can be most effective. It starts at the pre-sentence stage where the Probation Service does a report for a court right through to the sentence management of that offender, targeting the areas which need to be addressed. That follows through then into their management in the community. With this Bill, we are particularly keen to bring SORAM on a statutory footing because it further strengthens those good practices. We have SORAM in all of the 28 Garda divisions. The Deputy asked about the coalface. This involves senior probation officers, gardaí, Tusla and the local authorities working together collaboratively for that public protection piece.

We also have had opportunities where we did joint training with all of those bodies. Even at its simplest, we are talking the same language and we want the same things, ensuring people know where they are coming from. Each of us has their own job to do but this is about us working together. While we are never saying we are there, we have made progress in this area. It is something we need to keep going on to be effective.

Mr. Vivian Geiran: On Senator Ó Donnghaile's question about learning, as an organisa-

tion the Probation Service would always have an eye on what is happening internationally. Obviously, we should learn from that. On this island, North and South, we have a lot to learn from each other. In that sense, we do not have to go far. Just last week, we had an event in our Dublin headquarters where one of our colleagues from the PSNI did an interesting presentation on its local interagency hubs which are being developed to address areas of vulnerability, including sexual offending, domestic violence, safeguarding children and vulnerable adults. I was especially interested in that in the context that it showed a lot of promise in further encouraging that level of interagency co-operation. As Ms Burke said, we would like that to be put on a statutory basis under the legislation. This should also be encouraged and facilitated.

On Deputy O'Callaghan's question, what struck me about the hubs in Northern Ireland was that, as well as managing situations and offenders we already know about, it also feeds into a preventative approach and facilitates all the agencies involved. Very often it is the police who end up at 2 a.m. on the Sunday morning dealing with a particular incident. These issues can be addressed in a pre-emptive way through these local hubs.

Mr. Brian Dack: In reply to Deputy Wallace's question, it is obviously more difficult if people are undergoing an emotional collapse to work with them in a positive way. Their mental health becomes the priority issue. Similarly some of the programmes we have in operation to work with sex offenders demand a certain level of intellectual ability. With people with issues with intellectual disabilities, we have to deal with them in a different way. All the time we are recognising that an interagency approach is what is necessary. Accordingly, we are talking constantly to our colleagues in the mental health services and gaining their support. As my colleagues said, if this were on a statutory basis, it would bring those players in more forcefully because the powers would be there.

Senator Niall Ó Donnghaile: The hubs are positive examples. It is important the committee would have the opportunity to explore these and see the practicalities of them at work. The great benefit of having the PSNI and other organisations from the North in the room together with colleagues from the South is that it has allowed us to look at examples of good practice. The more that point can be made at each meeting with every organisation across the board, the better.

Deputy Mick Wallace: On Deputy Maureen O'Sullivan's Bill, does Dr. Fitzgerald-O'Reilly find it is on the oppressive side?

Dr. Margaret Fitzgerald-O'Reilly: It definitely needs to be strengthened if it is going to be put on the Statute Book. There are several issues inherent in the actual wording of the proposed revision that need to be cognisant of the implications for constitutional and human rights challenges. Currently, the wording of the provisions are not strong enough to live up to any potential future challenges on the grounds of the right to travel, the right to liberty in the context of freedom of movement and to privacy rights in particular. One has to look at the jurisprudence of the European Court of Human Rights on deprivations and restrictions placed upon freedom of movement and the circumstances in which oppressive or unnecessary restrictions on somebody's freedom of movement have been deemed to be a violation of Article 5 of the European convention. We need to establish terminology which allows us to incorporate that issue of necessity and proportionality within the meaning of the restriction or the prohibition on travel abroad. This would prevent it from being open to challenge on grounds of arbitrariness.

Following on from that point, what we mean by "restriction" is not clear. In the Bill's present form, it is assumed that the judge will decide whether the person will be allowed to travel.

That is unsatisfactory, as it renders the situation unclear and arbitrary. Some aspect of it should be based upon evidence adduced, for example, a specifically identifiable risk that has come to the authorities' attention via the report of a probation officer or something to that effect. There must be necessity and proportionality under our Constitution and the European convention. The purpose of the travel also needs to be considered, which could require a change in the wording of the current provision. If we incorporated certain requirements that a court must take into consideration, it could lend credit to the assertion that the restriction is necessary rather than arbitrary, take into account the fact that people sometimes need to travel, for example, in order to procure work or as part of their jobs, and would not impinge on their right to earn a livelihood. It would also allow people to enjoy family rights under our Constitution and Article 8. The wording needs to be examined in this context and we need to be clear about what we mean by "restriction".

The overarching - I hate to use the word "problem" - concept that we need to consider is the resources issue. If we are discussing restrictions on certain destinations or within a certain timeframe, there needs to be a way of implementing that effectively. To some extent, this would involve supervision. Is the Garda, the Probation Service or the court supposed to supervise? Would the court have to make subsequent orders or judgments against the individual in the event of his or her falling out of line with the restrictions? It also might involve authorities in another jurisdiction having to supervise our citizens, which leads to a resources issue, a question of communication, which is important, and other practical issues that may be difficult to resolve. We need to be cognisant of these matters if this provision is to be framed in statute.

Chairman: I thank Dr. Fitzgerald-O'Reilly.

Deputy Mick Wallace: Am I right in understanding that the foreign travel order has not been used in two years? Is Northern Ireland not different from the South? Do the witnesses from the North believe that Deputy O'Sullivan's Bill is unnecessary or something that we should progress?

Chairman: Would anyone like to pick up on that? Perhaps the PSNI team will go first, but only if its delegates are at ease with making a direct response to the question. It is entirely their decision.

Ms Barbara Gray: It is fine. It is useful legislation to have because, if required, it allows us to make decisions on risk-based criteria. In terms of the notification process, my colleague highlighted our expectations and requirements. Individuals are required to notify the police in advance if they intend to leave their registered home addresses for more than three days or travel elsewhere in the United Kingdom. We have requirements in respect of all travel outside the UK, except to the Republic of Ireland. Our requirements through the notification orders work well. We keep coming back to the processes that are in place for offender management. Designated risk managers seek to build those relationships, remind people of their requirements to do certain things and get to know individuals and their movements.

Chairman: Would Ms Hilman like to add something?

Ms Paula Hilman: In terms of a graduated response and the foreign travel order, we would apply to the court, but there would have to be grounds to believe that the offender travelling to the other country posed a risk to children. There are criteria that we would need to meet and evidence that we would need to present. As mentioned, the country in question and the purpose of the visit would have to be taken into account.

Mr. Ryan Henderson: All of Deputy Wallace's points were right. We have not used it, but it is important to have this provision when faced with a recidivist and determined sex offender. Members should ask themselves what other provision could prevent that happening? I take on board the points about proportionality and necessity, but this provision is an essential part of the armoury.

Mr. Vivian Geiran: While Dr. Fitzgerald-O'Reilly has made valid points on the need to avoid arbitrariness on the one hand and, on the other, ensure proportionality and necessity, I agree with our PSNI colleagues. This legislation would provide useful specific measures.

As far as I am aware, it is currently possible for a judge to make such an order, for example, as part of a post-release supervision order. The proposed legislation would provide specifically for how that should be done.

As is often the case, whatever legislation goes through will be furthered developed and planned for and the various rules of court, jurisprudence and so on will be developed. How the various agencies arrange their work will also develop. For example, if a probation officer was preparing an assessment for court, he or she might address the issue of travel in particular cases. It is useful that the legislation provides that any such decision would be made by a judge.

Dr. Fitzgerald-O'Reilly's points about resources and the supervision of someone who had been allowed to travel were important. I do not want to open up a whole other area of legislative debate, but legislation on the transfer of probation decisions between EU member states is due to go through the Oireachtas. It does not deal with next year's United Kingdom scenario, but there will be Irish legislation providing for the mutual recognition and transfer of supervision of probation-type orders in EU member states. That is one element of how the matters raised could be addressed.

Deputy Mick Wallace: What is Ms Counihan's take on this?

Ms Caroline Counihan: I agree with Mr. Geiran, in that Dr. Fitzgerald-O'Reilly made a number of valid points. As I listened to her, my gut feeling was justified. It is important that such a provision be framed properly. It is useful to have even if only one offender every five years has a foreign travel order, section 4 order or whatever made against him or her. There will always be people who have that propensity and where reams of evidence of a child or children being at risk in a foreign country can be produced. In general, the more weapons there are in the armoury of the people who must assess and manage risk over a period, the better. It would be good to have, but it is important that it be well framed so that it is insulated against legal challenge.

Deputy Mick Wallace: I thank Ms Counihan, and I thank Deputy Wallace for that series of questions. Our final contributor is Deputy Ó Laoghaire.

Deputy Donnchadh Ó Laoghaire: I apologise. I had to step out for a chunk of time in the middle of this meeting to attend another meeting. Many of my questions are likely to have already been covered, so I will read the transcript. If any of my questions has been addressed, the witnesses can feel free to refer me to the transcript and I will pick out their answers myself.

I wish to follow on from Deputy Wallace's questions. There is a broad consensus that the principle behind Deputy O'Sullivan's Bill is of value and that, although it might not be used very frequently, it would be of use when used. My question is for Dr. Fitzgerald–O'Reilly specifically and also for anybody else with a view on the matter. Technically and legislatively,

the witnesses have identified a number of significant flaws. Do they believe they can be rectified? Is the wording of the Bill so compromised that it would be better to start again? If we are all in agreement on the principle of the Bill, is there a basis on which it can be remedied and progressed to Committee Stage?

Dr. Margaret Fitzgerald-O'Reilly: It provides a backdrop. The idea is sound but the way in which it is currently framed exposes it very much to challenge. To some extent, one could build upon it, rehash it and reframe it but in some ways it might be better to propose it as a new provision within the Government Bill and examine how it might be worded and constructed more tightly with regard to the issues I mentioned. It might need to be within the Government Bill as a new provision and framed differently in the context of what it hopes to achieve and how it will achieve that. That is my simplistic answer to the question.

Chairman: The earlier response has probably covered the range. It was Deputy Wallace who asked the question. There is general acceptance that, with some amendment or some more thoughtful consideration, proceeding with the Bill has merit.

Deputy Donnchadh Ó Laoghaire: On my next question, I will start with Dr. Fitzgerald–O'Reilly. Ms Counihan and the other witnesses might wish to add to the response. Dr. Fitzgerald–O'Reilly says there is a lack of research on the effectiveness of electronic tagging. That being the case, I presume there is limited research, be it on a low scale or with poor quality controls. What does the research that exists tell us?

Dr. Margaret Fitzgerald-O'Reilly: The Deputy is absolutely correct. There is some limited research available both in Europe and the United States on the electronic tagging of high-risk sex offenders. There is research done on the tagging of high-risk offenders but it is specifically in the context of high-risk sex offenders that we are considering this prospect. That involves a very different type of research and very different empirical data.

Most of the research has tended to come from the United States. It has a very different context and is a very different jurisdiction but the basic principle is the same insofar as it permits electronic tagging of those who are considered to be a risk. The categorisation of risk can vary considerably in accordance with jurisdiction. The objective is to monitor, control and deter from sexual recidivism. All the research, whether it is in favour of keeping tabs on high-risk sex offenders or not, acknowledges categorically that there is no difference or a limited difference in recidivism rates between those who are electronically tagged and those who are not. There is no impact in terms of deterrence or reducing recidivism. Two points may be of value in this regard. One is in the context of a very carefully strategised post-release risk-assessment strategy on helping the offender to reintegrate into the community. It specifically relates to offenders who are subject to supervision. There is some evidence to suggest that electronic tagging can be helpful as one part of a more holistic, coherent re-entry strategy. It is in the short term, and there is some evidence to suggest it might be more useful for first-time offenders than repeat offenders.

The other issue concerns where monitoring revealed a new crime. Even if there is a suggestion that this was good, it tended to reveal crime in respect of breaches of registration orders. That, in itself, may hold value but in terms of the broader long-term goal of preventing sexual recidivism, there was no appreciable impact. While there is some limited impact and usefulness in terms of ensuring compliance or identifying non-compliance with registration requirements, which can be very positive and good, there is no appreciable value in terms of deterrence and preventing recidivism.

The last thing the research tells us is that electronic monitoring is very costly. There is consensus that it is not cost-effective if compared with the objectives. If the objective is preventing recidivism, or preventing somebody from having to be sent back to prison, there is no cost-neutralisation value to monitoring the person via GPS or some other method. The research concludes that it has to be questioned as to whether we want to provide this type of monitoring considering its lack of effectiveness, as is empirically proven, and the fact that it is so costly to implement. That is the consensus on the research. We need to be mindful of that.

Chairman: I thank Dr. Fitzgerald-O'Reilly. Would Ms Counihan like to contribute?

Ms Caroline Counihan: I do not have a great deal to add to what Dr. Fitzgerald–O'Reilly has said. What I have read dates back a little while but it does not differ much in essence from what Dr. Fitzgerald–O'Reilly just said. My understanding is that it can be useful to have somebody monitored electronically for a fairly short period, as Dr. Fitzgerald–O'Reilly was saying, and it can be useful where softer intervention has not worked or the relationship between the offender and his supervisor in the Probation Service has not worked, not through any fault of the Probation Service but because the offender is a diehard determined to commit crimes one way or another. I understand it can be helpful where the criminal behaviour or the non-compliance with the order in question is associated with a particular geographic location. It is all very fine if the electronic monitoring system tells one so and so is no longer going to this place, that place or the other place but one should not be lulled into a sense of false security; it might be that the offender is now committing offences in an unmonitored zone. It has been said so often this morning that there is no silver bullet. In certain circumstances and for certain offenders, and as part of an overall risk-management strategy, monitoring can be helpful but, from what I have read, usefulness in terms of time and geographical area is strictly defined.

Chairman: It is optional. It may or may not be a comfortable issue.

Deputy Donnchadh Ó Laoghaire: I might add something to that. I wish to refer to the Parole Board. It occurs to me that, on a practical level, any electronic system is only as good as the human resources behind it to address a breach of registration or conditions. I am not sure whether the research reflects this. We have enough difficulty in this jurisdiction with breaches of bail. Very often it is not the bail conditions that are the problem; rather, it is the ability of the Garda to deal with somebody who is not complying with them. The same applies to conditions on release from prison following a conviction. I refer to where electronic tagging is used but where the State does not have the resources to pursue somebody whose electronic tag indicates he is going to places he is not meant to be or is not showing up at the Garda station or wherever else he is required to be. I would like a general comment on that. In one of the statements, I am not sure which, there was commentary on the stigmatising effect of tagging. Is there experience in other jurisdictions of doing it more discreetly in terms of design and all that kind of stuff?

Chairman: Will Ms Burke address those questions?

Ms Ita Burke: We in the Probation Service absolutely agree with the Deputy that it is not simply a matter of putting on a tag and walking away. As the Deputy stated, it is about its management, the human resources involved and its monitoring. We feel that introducing electronic monitoring as part of a risk management strategy as a planned programme of intervention would be the most effective way of doing that. That has been proved in other jurisdictions. When it is integrated with a supervision package it can be at its most effective. The legislation is advocating the possibility, as part of a post-release supervision order, that somebody would be electronically tagged for a period of six months. We in the Probation Service see a value in

exclusions in some instances. If we knew the person's risk behaviour was associated with children, we see the value in having an exclusion zone around playgrounds or in keeping somebody away from a victim. There can be value in that. It is very much about monitoring that and it needs to be part of a planned package. As Ms Counihan stated, there could be instances of a person in custody who will be coming out on a post-release supervision order and certain risk factors were noticed while the person was in custody. We see a value in electronic tagging in those instances to encourage reintegration for the period of six months and tighter monitoring.

Chairman: I do not think the representatives of the PSNI wanted to add anything to that point.

Mr. Ryan Henderson: No. We outlined in our statement our general powers with regard to offenders; there is nothing specific with regard to sexual offending.

Chairman: That was my reading of it too.

Deputy Donnchadh Ó Laoghaire: I have two final questions. My first is open to whomever wishes to answer. Is the proposed Government legislation strong enough in situations where somebody is notified and information is passed on to somebody to whom it should not be passed on and there is a breach of the circumstances in which that notification should happen? Is that covered under data protection law? Do we need to strengthen this legislation to ensure when people receive notification they treat it properly, confidentially and with discretion?

Chairman: That question was addressed earlier, as was the GDPR. The Deputy will find there is substantive material on the record arising from earlier questions that were posed. The Deputy had another question.

Deputy Donnchadh Ó Laoghaire: My final question is mostly for the Probation Service. It is about an issue that presents occasionally. It is very likely it was covered earlier and, if so, that is fine. In circumstances where someone with a high profile committed sexual offences and there is media commentary, it sometimes becomes an issue of controversy based on a phantom in communities or inaccurate rumours. It is an issue that presents itself every so often. A big part of the solution needs to be around education and perhaps more responsible conduct by the media. It is not immediately obvious to me, although it might be to others, what the right environment is for somebody coming out of prison who is known to have committed certain offences. If people move into external communities that they are not familiar with and the public becomes aware it creates controversy, difficulty and a threat to the welfare of offenders. If offenders return to their home communities, it is possible the victims are in the area and they could come into contact or a confrontation could arise. I do not ask the question from the position of having a preconceived notion. When these controversies arise I am not entirely sure where the ideal location or setting is for people when they have been released for prison.

Mr. Vivian Geiran: I will take the final question first. What is the ideal location? The short answer is there is no ideal location. At the same time, the vast majority of sex offenders, if not all, who go to jail come out again. They come out no matter what they have done and they will have undoubtedly received a proportionate sentence. The sentence is the sentence and the best way we can try to ensure they do not go on to reoffend is through having the appropriate controls and monitoring in place and by trying to ensure there is a level of reintegration in their communities. The issue that arises from time to time and which impacts on our work, although thankfully only in a small number of cases, is the media sometimes publicise high profile cases and argue that people have a right to know that somebody very dangerous might be living in

their area. The individual has a right to make the best effort at resettlement in collaboration with the various agencies. As Ms Burke and Mr. Dack mentioned earlier, a small number of serious high-profile and high-risk offenders receive the highest level of attention on release from the police, the Probation Service and the various other services. People should be assured that when an offender at the highest level is released back into the community we are all doing our best to ensure the person is monitored and controlled but also helped to reintegrate so they do not reoffend. There is not an ideal scenario or location but unless we all work together to try to ensure the appropriate reintegration of the individual, we are taking backward steps.

Chairman: Perhaps Mr. Dack and someone from the PSNI will add to that.

Mr. Brian Dack: If we flip risk assessment on its head, it is about what positive protective factors we can put in place. We know prosocial influences are a positive factor. We know that social acceptance rather than rejection is a positive factor. In the Probation Service we work with an NGO to provide circles of support and accountability, COSA. Volunteers are recruited, trained and supported to work with isolated sex offenders to provide a social network and social support while at the same time monitoring behaviour. An inner circle, the core member of which is the sex offender, works closely with an outer circle that consists of professionals such as members of An Garda Síochána, the Probation Service and Tusla. It is a recognition that social isolation is a risk factor. Social acceptance in some form is a protective factor. Recent research that looked at the desistance of child sex offenders in Manchester indicated employment is one of the biggest protective factors in desistance from future offending. It is contrary to social isolation and becoming totally disregarded in communities. We are not saying the ideal place for offenders to return to is their own communities because quite frequently that is where the offending took place and the perpetrator is known to the victims, their families or communities. It is difficult for them to go back into that area. We work with our colleagues in local authorities to try to come up with housing solutions. We then try to put wraparound services in place to develop those positive factors and prevent social isolation, which leads to greater risk.

Mr. Ryan Henderson: I wish to build on what colleagues have said. In Northern Ireland, we are fortunate in that we have a network of hostel accommodation which can provide a protective shield for offenders and allow those connections concerning employment and support to be made. That works well, but it is limited and we always want more. That is an important part of the process of reintegration, prevention and assistance.

Chairman: Would Ms Counihan like to add anything?

Ms Caroline Counihan: To quote the somewhat legal language that is used, as matters stand, under section 46 of the Criminal Law (Sexual Offences) Act 2017, once somebody has been released from prison, probation officers, gardaí and victims may apply for a harassment order if necessary to prevent a sex offender "approaching within such distance as the court shall specify of the place of residence or employment of the victim or any other place frequented by the victim as the court deems appropriate" for a maximum of 12 months. That is a good protection to know about and it goes some way towards allaying the fears of victims when perpetrators come back into communities. It is very reassuring to hear that the probation service, in tandem with local authorities, does everything possible to offer sex offenders housing solutions elsewhere. Having a perpetrator in the local community is very difficult for victims, as the committee can imagine.

Dr. Margaret Fitzgerald-O'Reilly: I wish to echo the comments of the panel. It is notable that sex offenders, once released, are at a higher risk of homelessness, which is one of

the recidivistic factors that often come into play. There is another problem. Even though such harassment orders are of course a positive step, they might in some way distance offenders from reconnecting with their families. Forming those family ties can be an important way of overcoming the stigmatic narrative of the previous sexual offending. Again, this is for people who want to overcome that previous behaviour and be reintegrated. It is about encouraging the maintenance of those relationships, where appropriate, in order to facilitate reintegration.

Chairman: I thank the witnesses and Deputy Ó Laoghaire. We have reached the end of the meeting, but the committee is only at the start of its process. The hard work comes next. We have a report to prepare and we have to reach agreement on all of this. That includes colleagues who did not participate today. They will inform themselves on the basis of the witnesses' respective submissions and oral contributions.

Interesting references were made to Assistant Chief Constable Gray on two occasions. I do not know if she picked up on them. In the context of other former colleagues who have made a new home for themselves here, I was wondering how she would react to being addressed as an assistant commissioner. That happened twice during these proceedings. Mr. Dack has put his hand up; he started it. I am sure that Ms Hilman and Mr. Henderson will have a bit of fun with Assistant Chief Constable Gray over that on the way home. She had not brought them into her confidence. We will watch this space.

I thank Ms Geiran, Ms Burke and Mr. Dack, from the Probation Service. I thank Ms Gray, Ms Hilman and Mr. Henderson for journeying here to be with us and for their contributions. Safe home. I thank Ms Counihan and Rape Crisis Network Ireland. In light of the contribution of Dr. Fitzgerald-O'Reilly from the University of Limerick's school of law, that institution should be considered by prospective law students in the future. Well done. I thank all of our guests and the members for participating.

The joint committee adjourned at 11.45 a.m. until 9 a.m. on Wednesday, 5 December 2018.